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May 21, 2003

The Honorable Sheldon Silver
Speaker
New York State Assembly
Capitol
Albany, NY 12248

Re: The New York City Administration for Children's Services Budget

Dear Assembly Speaker Silver:

The Council on Children and the Committees on Children and the Law, Family Court and Family Law and Juvenile Justice of the Association of the Bar of the City of New York ("ABCNY") wish to express their strong support for this City's most vulnerable children by advocating for the restoration of child welfare funding cut from the Executive Budget for FY 2004. One estimate is that a restoration of \$48.5 million is the minimum necessary to prevent severe damage to the child welfare system. The exact dollar amount is fluid because of the rapidly changing budget environment. But what is not in flux is the devastating impact on the Family Court's ability to provide justice for families in New York. The ABCNY includes members of the bench and bar whose practices involve the most crucial and complex cases affecting families - the safety, permanent homes and future of their children. No other group of judges and attorneys can speak more directly for the interests of vulnerable and often impoverished children.

Seven years ago, New York City created the Administration for Children's Services (ACS) out of the tragedy of the death of a child. There was no question that the decades old need to reform and restructure the city's child welfare system had to be addressed. Since that time, a combination of legislation, litigation and cooperation between family and child advocates and ACS has helped to revitalize child welfare in New York City, managed by an agency which has embarked on the road to true reform. Yet this progress will be shattered if the current Executive budget cuts are implemented. The proposed City wide cuts, which appear to disproportionately impact ACS, will be devastating for vulnerable children and their families.

ACS is the mandated first responder or "911" system for children in crisis. It investigates reports of abuse and neglect and responds to the immediate needs of abused and neglected children and at-risk families. Child welfare trends in New York City have improved over the last seven years

with fewer children entering foster care and more children remaining safely at home with families receiving preventive services. The foster care population has been declining and is at a twenty-year low of approximately 26,000 children. The number of children entering foster care annually is also decreasing. In 2002, the number of children removed from their homes was 6% less than 2001 and 35% less than 1998. For the first time the number of children whose families are receiving services to prevent foster care placement is more than the number of children removed from their homes.¹ If these cuts are made, foster care rates will shoot up and so will the cost in both lives and dollars.

ACS is also focusing on returning children from foster care to their families as quickly as is safe. They have implemented family team conferences as a key tool to accomplish this reunification. When children cannot be reunified with their families, ACS is responsible to seek other permanency plans. Along with Chief Judge Kaye and the Commissioner of the New York State Office of Children and Family Services, ACS is planning to have every child assigned pre-adoptive status achieve legal permanency before year end.

The Executive Budget calls for \$217 million in cuts to ACS. The proposed contingency budget would cut another \$107 million.²

The City Council made a proposal regarding the Mayor's January Financial Plan to include the \$48.5 million ("to prevent severe damage to the child welfare system") in the budget for ACS referred to above. The exact amount of the restoration is not as crucial as the fact of the impact in each area cut. The proposed restoration would avoid a \$13.1 million cut in foster care rates, a \$9 million cut in child care slots, a \$7.8 million cut in preventive services, a \$7.6 million cut in substance abuse treatment for teens in care and a \$.5 million cut for Independent living services for teens. The cumulative cuts to ACS, which include reductions in the November modification, reductions proposed in the January Plan, reductions in the Executive Budget for CFY 04 and the Mayor's Contingency Reductions will dismantle recently achieved and long overdue reforms and expose children to dire consequences.

The effect of these cuts will be to send New York City's child welfare system reeling back to days of dysfunction and danger to children. Additionally, the cuts will cost the city in the short and long run because only the most expensive interventions will survive. At the heart of the cuts are two areas which have been the most crucial to the reform effort: preventive programs and training of

¹ Testimony of William C. Bell, Commissioner Administration for Children's Services before the New York City Council, March 13, 2003.

² There are two budgets currently in play in New York City, FY 03 and FY 04, and the \$217 million cut to ACS is a combination of the budgets and modifications of them. The \$107 million is additional cuts which would be imposed if the City had to go to a third, contingency budget.

new caseworkers. Additionally, cuts to child care and to the foster care rates undermine crucial child safety services.

The 18.5% cut to preventive services will gut that system's ability to forestall foster care placement of children - causing increased use of the back end of the child welfare system, foster care, which is expensive both in terms of money and of trauma to children.³ The cut to the Beacon Preventive Program illustrates how cuts at the front end of services have a domino effect on children. The Beacon programs, which were developed as part of an anti-drug/anti-crime strategy for NYC, provide a wide range of positive after school and weekend activities for young people in their communities. To eliminate these crucial programs will mean that young people are left without structure during the very periods when they are most at risk of involvement with delinquent activity, and the resulting financial, social and human cost will be much higher.

The training of caseworkers to make better risk assessments concerning children has saved lives as well as dollars. As part of reform, ACS instituted a Common Core Curriculum to intensively train caseworkers who are the crucial front line decision makers in child welfare. The curriculum was instituted because ACS knew that poorly trained staff could not protect children. The current budget will eliminate a training program including three training positions. This saves \$1.4 million in City tax levy money, but the savings is actually at a huge cost - short-sighted decision making will, as it has in the past, result in too many children in foster care who do not belong and children who need to be removed winding up in dangerous situations.

The cut in rates to foster care agencies hurts children in two ways. The first is that the system stands to lose qualified foster parents because of rates which are low and haven't been raised in years. As the situation in New Jersey illustrates, inadequate rates lead directly to inadequate foster parents and the kind of tragedy which was described recently in the NY Times story⁴ about a four year old child in New Jersey who died in the care of a seventy-four year old foster mother whose health was failing and who had several foster children in her care. In addition, foster care agencies cross-subsidize preventive program administration with funds from protective services so cuts in foster care rates will also affect preventive programs.

The cuts will also compromise the already strained ability of the Family Court to comply with federal and state law and will handicap attorneys working with families. The Adoption and

³ The average cost of a preventive service slot is \$6,960 per year, compared with \$17,000 for a foster boarding home slot and \$58,000 for a congregate foster care slot. New York City Council, Finance Division, Fiscal 2004 Preliminary Budget Response, April 2003, Part III, pg. 63.

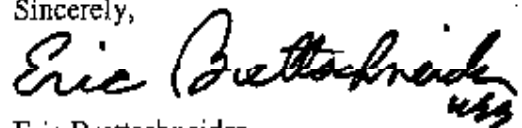
⁴ Kaufman, Leslie and Richard Loezin Jones, "Misplaced Trust: Child Welfare in Crisis; Cradle to Grave in Flawed New Jersey Foster Care", April 6th, 2003, Section A, Page 1, Column 1, Kaufman & Jones, "In 2001 Statistics, Trenton Finds Abuse High in Foster Care", April 16th, 2003, Metro Section.

Safe Families Act (ASFA) of 1997 mandates that child welfare agencies and courts establish permanent plans for children in care within specific time frames. For instance, the courts must conduct permanency hearings for all children in abuse and neglect cases within 12 months of the case opening. In order to hold these hearings, ACS casework staff must be available and informed. The court must have access to information that can only be provided by caseworkers who must leave the field in order to be present in the courtroom. Moreover, if the child is in foster care for a total 15 months out of 22 months, the city must move to terminate parental rights and even at current staffing levels case workers struggle to meet these mandated deadlines. Federal regulation provides that if decisions in these matters are not made on a timely basis, the case will be ineligible for federal Title IV-E funds. All of the proposed cuts will hinder compliance with these legislative time frames. The city and state stand to lose millions of dollars of federal foster care funds if the time to achieve permanency increases.

The City Council previously proposed inclusion of the above-described \$48.5 million that the Administration has now cut from the budget for ACS in FY 2004. The proposed restoration of these funds is targeted toward preserving the reforms made in the child welfare system so that New York City does not again pay huge costs in the form of trauma and tragedy to children, as well as incur long-term escalating fiscal consequences. In addition, the City Council's previous proposals included \$22 million in alternative cost savings for the agency, and suggestions of making the agency budget more transparent. The alternative cost savings would be achieved by, for instance, bringing children placed in out-of-state foster homes back to the City, and by reducing city contributions to consultant contracts.

We recognize that this is the most difficult budget environment in years. However, choices must and will be made. In fact, five hundred ACS staff have, as of May 15, 2003, received lay-off notices. The above-referenced committees of the ABCNY, representing all aspects of the child welfare and family court work of the Bar, believe it is crucial that funds be restored to the budget for New York City's Administration for Children's Services. The lives of children are literally in the balance.

Sincerely,

A handwritten signature in black ink that reads "Eric Brettschneider" with a small mark below the name.

Eric Brettschneider